IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 2304 OF 2007
ALONGWITH

WRIT PETITION NO.2306 OF 2007

Ravindra Lalchand Oswal ....Petitioner

versus

Firoz Elias and others ..... Respondent.

Mr. Sameer Tendulkar for the petitioner
Mr. A.S.Khandeparkar i/b Khandeparkar & Associates for Respondents 1 to 3.

CORAM; A.P. DESHPANDE, J.
DATED; 18TH JUNE, 2007

P.C.;

1. The plaintiff no.3 Khudabux Sheriar Irani has filed an application for restoration of the suit for himself and other two plaintiffs. For representing plaintiff nos. 1 and 2, power of attorney purported to have been executed by the plaintiff nos. 1 and 2 has been placed on record by plaintiff no.3 K.S.Irani. The present petitioner has raised objection to the validity of the power of attorney.

2. The petitioner filed an appliction before the trial court urging that the examintion-in-chief affidavit filed by the plaintiff no.3 be not treated as having been filed on behalf of plaintiff nos.1 and

2. The said application came to be rejected by holding that it is not possible at that stage to decide the correctness of the objection raised by the petitioner in regard to power of attorney so also the authority of plaintiff no.3 to represent the plaintiff nos. 1 and 2. The impugned orders clearly reveal that the trial court proposes to consider the objection at the appropriate stage after recording of the evidence. Hence no case for intervention in writ jurisdiction is made out at this stage. The learned counsel for the petitioner submits that he does not press the writ petitions and the trial court be directed to proceed to consider the objection on merit. It is further prayed that all the questions raised in these writ petitions be left open to be adjudicated at the appropriate stage before the trial court. Hence writ petitions are dismissed as not pressed. The trial court shall proceed to decide the objections raised by the petitioners on merit at the appropriate stage uninfluenced by the observations made in the impugned order touching the merit.

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